

Message

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Sent: 1/4/2018 2:14:36 PM
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Subject: FW: WHAT EPA HAS DONE WELL IN BUTTE--WHAT REMAINS TO BE DONE.

FYI

From: John Ray [mailto:bodinman2003@yahoo.com]
Sent: Wednesday, January 03, 2018 11:15 AM
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Subject: WHAT EPA HAS DONE WELL IN BUTTE--WHAT REMAINS TO BE DONE.

Submitted by: Dr. John W. Ray

Overall, Butte is much healthier and the natural environment much more protected and restored because of the EPA and Superfund. Without Superfund, Butte would have remained a toxic place that was the result of over a century of mining.

What has gone well:

RMAP (Residential Metals Abatement Program)

This program has been an outstanding success and is a national model for the residential cleanup of lead and arsenic. EPA is primarily responsible for this program's existence. Particular praise is due the EPA's remedial project manager Sara Sparks for her efforts related to lead cleanup in Butte and the RMAP program's creation. The RMAP program has been effectively and efficiently administered by the Butte Health Department. The RMAP team in Butte is outstanding.

Brochure "Be Contaminant Smart"

The brochure entitled "Be Contaminant Smart" has been delivered extensively in Butte (Over 5000 have been distributed.) This year, plans are to engage in making public presentations at local public interest group meetings as well as service club meetings such as Kiwanis Club in Butte. Presentations about the brochure have already been scheduled for this year. A particular focus for distribution has been the environmental justice community in Butte. I developed this brochure under the auspices and with the support of EPA. Robert Moller, CIC for Butte, has been very supportive of this effort and instrumental in the distribution efforts.

Streamside

This decision is widely recognized as the type of cleanup that EPA should provide. It is an outstanding example of collaboration between the EPA and citizens.

Efficacious Community Involvement Activities

The last couple of years have seen a renewed commitment by the Butte CIC to promote meaningful public involvement. EPA officials regularly attend meetings in Butte that discuss Superfund.

CTEC

EPA has continued to support the local TAG group CTEC and regularly attends CTEC meetings.

BRES—Native Plants

Thanks to the efforts of Robert Pal of Montana Tech and the EPA project manager in Butte—Nikia Greene, BRES is on track and improving the protectiveness and permanence of the caps in Butte.

While I have been critical of EPA in the past, this criticism should not be taken as a critique of the whole idea of government regulation in order to protect and restore the environment. As I said, without Superfund and the EPA, Butte would still be a toxic and polluted wasteland because of past mining activities. Without government regulations, the Anaconda Company, ARCO and now BP ARCO would not have paid to clean up Butte. Corporations do not exist to promote the public good. Corporations exist to promote the financial interests of the members of the corporation.

Given that a corporation's goal is to maximize corporate profits not promote the common good, government has a duty to limit corporate ability to dominate the political process. Government is the only institution charged with promoting the general welfare. Relying on corporate "good-will" to advance the public good is asking corporations to do what they were never designed to do. When we appeal to corporations to do the right thing we are misguidedly "calling upon those who wield corporate power and property, as mankind called upon kings of their day, to be good and kind, wise and sweet, and we are calling in vain. We are asking them not to be what we have made them to be. We have put power into their hands and ask them not to use it as power." (Henry Demarest Lloyd, *Wealth Against Commonwealth*) Only government is powerful enough to check corporate power.

Protecting people from the harmful effects of toxics that they could not prevent on their own is a function of government, not of corporations. Assessing and collecting the social costs of past polluting activities is a function of government and not of corporations. Dealing with the negative externalities that were the result of over a century of mining in Butte are a government activity, not a corporate activity. Providing collective action to deal with the collective problem of environmental degradation is a government function, not a corporate function. Private citizens cannot protect themselves from the past pollution in Butte. There are no market incentives for cleaning up Butte. The market would and has failed to address environmental cleanup absent government mandate. Only government, as I said, is charged with promoting the common good and the general welfare and environmental protection is certainly part of the common good and the general welfare.

In short, the EPA is necessary and needed in Butte as it is across the country. Efforts to restrict and reduce EPA are subversive of the public good.

Of course, the EPA is not perfect. There are problems regarding the cleanup in Butte.

With that said, I would hope for action in the following areas that I see as problematic:

Community Involvement

Robert Moler still has the strong support of the Butte community. I believe, as do others, that he is sincerely committed to fulfilling the EPA mandate to promote efficacious and meaningful public involvement. But the CIC cannot do it alone. The EPA's own documents state that effective community outreach should be the commitment of all EPA personnel, not just the CIC. CICs are not decision makers. The decision makers need to be committed to efficacious and meaningful public involvement. Such commitment has been spotty. Some EPA officials have been downright hostile to community input. Some have been indifferent. Some have been very effective. In the past Russ Forba, RPM in Butte and Missoula, was very effective. Henry Elsen in the Montana office I believe has a strong commitment to involving the public. I have always found him to be honest and straightforward with the public. But this commitment needs to extend to all. (I also want to add that Bob Fox who was Superfund coordinator for the Montana Office in the past was also excellent as was John Wordell, who directed the office until his untimely death.)

Environmental Justice

While the brochure entitled "Be Contaminant Smart" has targeted the environmental justice community in Butte, much more needs to be done. Members of the environmental justice community need to be included in decision making. Special consideration needs to be given as to the effects the toxics of concern have on low-income and Native American citizens in Butte.

Westside Soils

EPA still claims that it practices "good science" and that its decisions are fact/evidence based which facts and evidence are discovered through a rigorous and valid scientific process. Westside Priority Soils in Butte shows this statement to be vacuous. According to the EPA's own office of inspector general, the area south of Front Street is very likely contaminated by the same contaminants found north of Front Street. EPA itself

estimates that the plume of contamination from the Anaconda Smelter has left a 300 square mile footprint of contamination. The kind of arsenic (Trivalent Arsenic) found in the attics in Butte, north and south of Front Street emanates from the smelter process. Yet, contrary to its professed commitment to good science, EPA and its "partner" MDEQ refuse to engage in any comprehensive and systematic investigation of the area south of Front Street. EPA intuitively feels that there is no significant degree of contamination present without any comprehensive investigation. Is this "good science?" Why has EPA for months lead people to believe that the area south of Front Street would be addressed? Is EPA more interested in protecting ARCO's bottom line instead of the public's health?

Montana Pole Plant

This is a FEDERAL Superfund site. MDEQ may be the lead agency but ultimate responsibility still rests with EPA. We haven't heard much from the new EPA RPM Allie Archer. I was told by her that EPA has yet to approve what the state is doing but that is about all I have heard from EPA.

MDEQ refuses to reveal what investigations it has pursued regarding contemporary approach to bio-remediation of the dioxin at the Plant. The ROD for the Pole Plant called for active treatment. Now MDEQ is abandoning that approach in favor of cap, fence and declare off limits. MDEQ refuses to reveal what will happen at the Plant when the money runs out as it will, according to MDEQ itself, before the cleanup is completed. After misleading the county for years, MDEQ still refuses to give a clear answer as to what future land uses will be allowed at the Plant.

Health Study

EPA has so far refused to require that it's mandated Health Study, which is supposed to investigate whether or not Superfund is working, address environmental justice issues. The protocol that the study will use ignores the effects of the toxics of concern in Butte on low income citizens who live in disproportionate numbers in the Superfund area. In the past, EPA has used these Health Studies as propaganda tools to show how good a job the agency is doing. Will anything be different this time? Will specific consideration be given to the effects of the toxics of concern in Butte on the environmental justice community?

Tailings

EPA still maintains the remedy for the Parrott Tailings, Diggings East, Northside Tailings, etc. along Silver Bow Creek is working to protect human health and the environment. Yet, EPA has also embraced the Restore Our Creek vision. There is a lack of consistency here. Unless all of the tailings along Silver Bow Creek in Butte are removed, the Restore Our Creek vision cannot be achieved. Where does EPA really stand on removing the tailings along Silver Bow Creek under remedy? Will EPA reverse course and order ARCO to remove the all the tailings along Silver Bow Creek in Butte? Can't the agency give a clear answer?

Based on an interview by ARCO published in the Montana Standard, ARCO is of the firm belief that the current water remedy for the Parrott Tailings, Diggings East Tailings, Northside Tailings, etc. is working. If EPA wanted ARCO to remove the tailings, I assume ARCO would object. EPA, as I said, has consistently maintained that the water

remedy is working in terms of the Parrott Tailings, etc. EPA has dismissed those calling for the removal of the tailings. For EPA to require the removal of the tailings associated with the Parrott, Diggings East, etc., would be a major reversal of the agency's position. My point in raising the above is to pose this question: Has EPA been forthright with the community regarding its position on tailings removal along Silver Bow Creek in Butte? What is the real likelihood that EPA will mandate the removal of the tailings along Silver Bow Creek in Butte under remedy? All of the tailings along Silver Bow Creek in Butte must be removed for the Restore Our Creek vision to be fulfilled. If all the tailings along Silver Bow Creek in Butte are not removed under remedy, how practically would the tailings along Silver Bow Creek in Butte be removed? There isn't a lot of restoration money left for such a project. If ARCO doesn't pay, who will pay? And ARCO will only pay if it is required to do so by EPA. Has EPA been upfront with Butte about support for the Restore Our Creek vision?

I have raised these issues before. They are not new. I would like them to be addressed by EPA. I believe that I deserve and have a right to substantive answers to substantive questions.

Please take the comments in the intended spirit. Much progress has been made. In many ways Superfund has been a success. But I strongly feel more needs to be done.

EPA is operating in a difficult political climate. Regulatory agencies are under attack as is the whole concept of government regulation. The force field of politics makes protecting the environment difficult. But simply because a task is difficult does not mean that the obligation to protect the environment has been absolved or removed. I applaud EPA personnel for their commitment to a clean and health natural environment in difficult times. But I think a lot more needs to be done.